

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

MARIA DALBOTTEN,

Plaintiff,

v.

C. R. BARD, INC. and BARD
PERIPHERAL VASCULAR, INC.,

Defendants.

Case No. 1:20-cv-00034-SPW

**ORDER GRANTING
DEFENDANTS' MOTION TO
EXCLUDE OR LIMIT OPINIONS
AND TESTIMONY OF STEVEN
HERTZ, M.D.**

On February 2, 2022, Defendants C.R. Bard, Inc. and Bard Peripheral Vascular Inc. (collectively "Defendants") filed and served Plaintiff with Defendants' Motion to Exclude or Limit Opinions and Testimony of Steven Hertz, M.D. and supporting brief. *See* Docs. 92 & 93. Plaintiff failed to file a timely response.

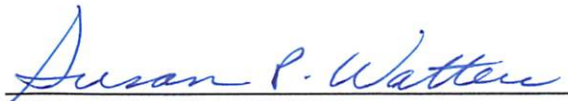
Pursuant to L.R. 7.1(d)(1)(B)(ii), "failure to file a response brief may be deemed an admission that the motion is well-taken." Accordingly, the Court deems Plaintiff's failure to respond as an admission that the motion is well-taken. In addition, the Court has reviewed the materials, arguments, and authorities submitted by Defendants in support of their Motion and finds that the requested

relief is warranted. Dr. Hertz's testimony and opinions are irrelevant, confusing to the jury, speculative, and cumulative.

Based upon the foregoing,

IT IS HEREBY ORDERED that Defendants' Motion to Exclude or Limit Opinions and Testimony of Steven Hertz, M.D. is GRANTED. Dr. Hertz's opinions and testimony are excluded in their entirety.

DATED this 24th day of May, 2022.



SUSAN P. WATTERS
United States District Court Judge